DEC 3 0 1998

## STATE OF ARIZONA

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BY	

	BY
2	DEPARTMENT OF INSURANCE
<ul><li>3</li><li>4</li><li>5</li><li>6</li></ul>	In the Matter of:  Docket No. 98A-211-INS  DEBORAH JEAN BAGGETT  ORDER SUMMARILY SUSPENDING  Respondent.  LICENSES AND NOTICE OF HEARING
7 8 9 10 11	The Arizona Department of Insurance ("Department") alleges that Deborah Jean Baggett ("Respondent") has violated the provisions of Arizona Revised Statutes, Title 20. In light of the serious nature of these allegations, the Director of Insurance ("Director") finds that the public health, safety and welfare require emergency action, within the meaning of A.R.S. §41-1092.11(B).  THEREFORE, IT IS ORDERED summarily suspending the Arizona insurance license held by
13 14 15	Respondent, effective immediately, pending the proceedings for revocation commenced this date.  EFFECTIVE this day of December, 1998.
16 17 18	CHARLES R. COHEN Director of Insurance
20   21   22	

#### NOTICE OF HEARING

PLEASE TAKE NOTICE, that pursuant to the provision of A.R.S. §§20-161 through and including 20-165, and A.R.S. Title 41, the above-captioned matter will be heard before the Director of the Director's duly designated representative, on Tuesday, the 16th day of February, 1999, at 9:00 a.m., at the Office of Administrative Hearings, 1700 West Washington, Capitol Tower, West Wing, Suite 602, Phoenix, Arizona (the "Hearing").

Motions to continue this matter shall be made in writing to the Administrative Law Judge named herein, not less than five (5) business days prior to the date set for hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

A.R.S. §20-164(B) entitles any person affected by the Hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to examine witnesses, to present supporting evidence, and to have subpoenas issued by the Director to compel attendance of witnesses and production of evidence.

If Respondent is represented by counsel, the attorney shall be licensed to practice law in the state of Arizona, or, if the Respondent is an insurer, it may be represented by a corporate officer, pursuant to A.R.S. §20-161(B).

Pursuant to A.R.S. §41-1092.07(D), a clear and accurate record of the proceedings will be made by a court reporter or by electronic means. Any party that requests a transcript of the proceedings shall pay the cost of the transcript to the court reporter or other transcriber.

Questions concerning issues raised in this Notice of Hearing should be directed to Assistant Attorney General Michael J. De La Cruz, (602) 542-3702, 1275 West Washington Street, Phoenix, Arizona 85007.

#### NOTICE OF APPLICABLE RULES

On January 23, 1992, the Arizona Department of Insurance adopted A.A.C. R20-6-101 through R20-6-115, setting forth the rules of practice and procedure applicable in contested cases before the Director of Insurance. The hearing will be conducted pursuant to these rules.

PURSUANT TO A.A.C. R20-6-106, APPLICANT SHALL FILE A WRITTEN ANSWER
WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND SHALL MAIL OR
DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY GENERAL
DESIGNATED ABOVE. THE ANSWER SHALL STATE APPLICANT'S POSITION OR DEFENSE
AND SHALL SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE OF
HEARING. ANY ASSERTION NOT DENIED SHALL BE DEEMED TO BE ADMITTED. ANY
DEFENSE NOT RAISED IN THE ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS
NOT TIMELY FILED, APPLICANT SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR
MAY DEEM THE ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION IS
APPROPRIATE, INCLUDING SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR
RENEWAL OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER
RESTITUTION TO ANY PARTY INSURED.

PERSONS WITH DISABILITIES MAY REQUEST REASONABLE ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUEST FOR ACCOMMODATIONS SHOULD BE MADE AS EARLY AS

POSSIBLE TO ALLOW TIME TO ARRANGE THE ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE HEARINGS AT 542-9826.

The allegations supporting this Notice of Hearing are as follows:

- 1. Respondent holds, and at all material times held, a license to transact property and casualty insurance business in the state of Arizona, license number 50155. The license expires effective December 31, 1998.
- 2. Respondent resides in Ajo, Arizona, which is located on the border of Mexico.

  Respondent's primary transaction of business under her license was selling tourists Mexican auto insurance for their brief trips into Mexico. Respondent managed a combination insurance office/ "Mr. Burger" restaurant, from which she sold the insurance.
- 3. Respondent frequently secured insurance for these consumers by asking them to pay with credit or debit cards. Respondent had contracts with two credit card companies -- Novus and Delta Card Service. Respondent had a credit card machine with an account established under the name of Arizona Mexico Insurance Services ("AMI") and she was the sole signatory on the account. In fact, Respondent was an independent contractor for John Stathis and his d.b.a. is Arizona Mexico Insurance. Respondent did not have Stathis' permission to open any account using his d.b.a.
- 4. The money generated by the credit card charges was deposited to Respondent's AMI account. Respondent wrote checks for personal use from this account, including a check dated October 14, 1998, for \$5,343.61, which was the down payment for a home in which Respondent now resides.

#### **COUNT I**

- 5. On May 22, 1998, James Christian purchased a three day Mexican auto insurance policy from Respondent. Christian used his VISA debit card to pay the \$29.00 premium. This amount was paid in full in May 1998.
- 6. In October 1998, Christian received his Norwest bank statement that includes purchases on his VISA debit card. A \$29.00 debit on October 1 and a \$92.00 debit on October 8 to AMI appeared on Christian's statement. Christian did not purchase additional Mexican auto insurance on these dates nor did he authorize additional debits from his account.

#### **COUNT II**

- 7. On December 26, 1997, Fred J. Walhof purchased a four day Mexican auto insurance policy from Respondent. The insurance was purchased at "Mr. Burger" from Palm Insurance of Arizona, an unregistered d.b.a. briefly used by Respondent. Walhof used his VISA credit card to pay the \$23.35 premium. This amount was paid in full in January 1998.
- 8. In November 1998, Walhof received his VISA statement. The November bill reflected a \$123.35 charge from AMI on October 10, 1998. Walhof did not purchase additional Mexican auto insurance on this date nor did he authorize additional charges to his account.

#### **COUNT III**

9. On October 24, 1997, Joleen Richardson-Hall purchased a Mexican auto insurance policy from Respondent at "Mr. Burger". Richardson-Hall used her Wells Fargo CheckCard to pay the \$33.48 premium. This amount was paid in full in October 1997.

10. Richardson-Hall received her October 1998 Wells Fargo statement and discovered a \$133.48 charge from AMI on October 8, 1998. Richardson-Hall did not purchase additional Mexican auto insurance on this date nor did she authorize additional charges to her account.

#### **COUNT IV**

- 11. In May 1998, Ann Kemter paid for a portion of a Mexican auto insurance policy purchased from Respondent. The owner of the insured vehicle paid half the premium in cash and Kemter paid the remaining \$17.00 with her Fleet Bank debit card. This amount was paid in full in May 1998.
- 12. When Kemter received her October 1998 Fleet Bank statement she noted a \$27.00 debit on September 25 and a \$57.00 debit on October 5 paid to AMI. Kemter resides in New York, she did not purchase additional Mexican auto insurance on these dates nor did she authorize additional debits from her account.

#### **COUNT V**

13. The Department obtained copies of AMI's Community First National Bank statements. In the month of October 1998, AMI received payment for \$15,051.44 in credit card charges.

Respondent wrote checks against the entire \$15,051.44 and she is the sole signatory on the account.

#### **VIOLATIONS**

- 14. Respondent's conduct, as alleged above, constitutes a willful violation of or noncompliance with any provision of Title 20, within the meaning of A.R.S. §20-316(A)(2).
- 15. Respondent's conduct, as alleged above, constitutes misappropriation or conversion or illegal withholding of monies belonging to policyholders or others and received in or during the conduct of business under the license or through its use, within the meaning of A.R.S. §20-316(A)(4).

- 16. Respondent's conduct, as alleged above, constitutes a conduct of affairs under the license showing the licensee to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer within the meaning of A.R.S.§20-316(A)(7).
- 17. Respondent's conduct, as alleged above, constitutes the diversion of monies of an insurer or other person, within the meaning of A.R.S. §20-463(A)(4)(a).

WHEREFORE, if after hearing, the Director finds the grounds alleged above, the Director may suspend, revoke, or refuse to renew Respondent's insurance license or order restitution, or order Respondent to pay civil penalties, prusuant to A.R.S. §§20-316(C) and 20-456.

Pursuant to A.R.S. §20-150, the Director delegates the authority vested in the Director of
Insurance of the State of Arizona, whether implied or expressed, to the Director of the Office of
Administrative Hearings or his designee to preside over the hearing of this matter as Administrative Law
Judge, to make written recommendations to the Director of Insurance consisting of proposed Findings of
Fact, proposed Conclusion of Law and a proposed order. This delegations does not include delegation of
the authority of the Director of Insurance to make he order on hearing or other decisions in this matter.

Pursuant to A.R.S. §41-1092.01, your hearing will be conducted by the Office of Administrative Hearings, an independent agency. Please find enclosed a copy of the procedures to be followed.

Dated this 30 to day of December, 1998.

CHARLES R. COHEN Director of Insurance

1	COPY of the foregoing mailed/hand-delivered this 30th day of December, 1998, to:	
2	Deborah Jean Baggett	
3	1021 Jefferson Avenue Ajo, AZ 85321	
4	Deborah Jean Baggett	
5	410 Estrella	
6	Ajo, AZ 85321	
7	Deborah Jean Baggett 3641 Hwy 85	
8	Ajo, AZ 85321	
9	Michael J. De La Cruz Assistant Attorney General	
10	1275 West Washington Phoenix, AZ 85007	
11	Sara M. Begley, Deputy Director	
12	John D. Gagne, Assistant Director  Maureen Catalioto, Supervisor	
13	Donna Futrell, Investigator Arizona Department of Insurance	
14	2910 North 44th Street, Suite 210 Phoenix, AZ 85018	
15	Lewis Kowal	
16	Administrative Law Judge Office of Administrative Hearings	
17	1700 West Washington, Suite 602 West Wing, Capitol Tower	
18	Phoenix, AZ 85007  A courtesy copy of this Notice of Hearing has been mailed/delivered to the persons listed below	7.
19	A courtesy copy of this Notice of Hearing has been mancaden vered to the persons instead of the persons in the person in the persons in the p	
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than the Director's final order. Information about the status of this matter, including whether the hearing date has been changed, may be obtained by contacting the Department of Insurance at (602) 912-8454. Colonial Insurance Company of Wisconsin P.O. Box 182109 5525 Park Center Circle Columbus, OH 43218-2109 

FEB 3 1999

#### STATE OF ARIZONA

DEPARTMENT OF INSURANCE BY

DEPT. OF INSURANCE	DEPT.	<b>OF INSURANCE</b>
	BY	(PB

In the Matter of:

) No. 98A-211-INS

DEBORAH JEAN BAGGETT
) FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

On December 30, 1998, the Arizona Department of Insurance ("Department")

issued an Order Summarily Suspending Licenses and Notice of Hearing ("Notice") in the above-captioned matter, a copy of which is attached and incorporated herein by this reference. The Notice required Respondent Deborah Jean Baggett ("Respondent") to provide a written answer to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Respondent has failed to file an answer. On February 1, 1999, counsel for the Department filed a Request for Default, and Proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has not responded to the Department's request. Pursuant to A.A.C. R20-6-106(C), a party that fails to file an answer within the time provided shall be deemed to be in default and one or more of the allegations in the notice of hearing may be deemed to be admitted.

### FINDINGS OF FACT

- Notice was proper.
- 2. Respondent is in default.
- 3. The allegations in the Notice of Hearing are deemed admitted.

#### **CONCLUSIONS OF LAW**

1. The conduct alleged in the Notice constitutes grounds for the Director to suspend, revoke or refuse to renew Respondent's licenses to transact insurance in Arizona, pursuant to A.R.S. §20-316(A).

to impose a civil penalty and/or order restitution, pursuant to A.R.S. §20-316(C). 2 ORDER 3 Based on the above, IT IS ORDERED THAT: 4 All insurance licenses held by Respondent are revoked effective upon 1. 5 the issuance of this Order. 6 Respondent shall make restitution to the following entities and in the 2. 7 amounts listed: (a) Delta Card Service/Woodforest National Bank in the amount of 8 \$14,865.41; and (b) Novus Merchants in the amount of \$1,652.20. Respondent shall pay a civil penalty in the amount of  $\frac{1,000.00}{1}$  to 3. 10 the Director payable upon entry of this Order for remission to the State Treasurer for 11 deposit in the State General Fund. 12 The hearing set for February 16, 1999, at 9:00 a.m. at the Office of 4. 13 Administrative Hearings shall be vacated. 14 day of February, 1999. DATED this 15 16 17 Director of Insurance 18 19 COPY of the foregoing mailed this 20 3rd day of February, 1999, to: 21 Lewis D. Kowal Administrative Law Judge Office of Administrative Hearings 1700 West Washington, Suite 602 23 Phoenix, AZ 85007 24 Michael J. De La Cruz Assistant Attorney General 25 1275 West Washington Phoenix, AZ 85007 26

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The conduct alleged in the Notice constitutes grounds for the Director

	Y1	FO	R DEPOSIT OF	
1	Gerrie L. Marks, Executive Assistant for Regulatory Affai John Gagne, Assistant Director		FEB 0 3 1999	
2	Donna D. Futrell, Investigator  Maureen Catalioto, Supervisor	STATE	TREASURER OF	ARIZONA
3	Department of Insurance 2910 N. 44th Street, Suite 210	INS	TREASUREM OF SURANCE DEPAR	
4	Phoenix, AZ 85018			
5	Randy W. Niles Office of Administrative Hearings			
6	1700 West Washington, Suite 602 Phoenix, Arizona 85007			3.
7	Deborah Jean Baggett			
8	1021 Jefferson Avenue Ajo, AZ 85321			
9	Respondent		S.	
10	Deborah Jean Baggett 410 Estrella		ĸ	
11	Ajo, AZ 85321 Respondent			
12	Deborah Jean Baggett			
13	3641 Hwy 85   Ajo, AZ 85321			
14	Colonial Insurance Company of Wisconsin		a.	
15	P.O. Box 182109 5525 Park Center Circle			
16	Columbus, OH 43218-2109			
17	O. Button			
18	53781 [CPA99004]			
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STATE OF ARIZONA FILED

Consumer Protect. . & Advocacy Section

JAN 04 1999

## STATE OF ARIZONA

DEC 3 0 1998

DEPT. OF INSURANCE BY\_\_\_\_\_

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In the Matter of:	) Docket No. 98A-211-INS
DEBORAH JEAN BAGGETT	ORDER SUMMARILY SUSPENDING
Respondent.	) LICENSES AND NOTICE OF HEARING

The Arizona Department of Insurance ("Department") alleges that Deborah Jean Baggett ("Respondent") has violated the provisions of Arizona Revised Statutes, Title 20. In light of the serious nature of these allegations, the Director of Insurance ("Director") finds that the public health, safety and welfare require emergency action, within the meaning of A.R.S. §41-1092.11(B).

THEREFORE, IT IS ORDERED summarily suspending the Arizona insurance license held by Respondent, effective immediately, pending the proceedings for revocation commenced this date.

EFFECTIVE this day of December, 1998.

CHARLES R. COHEN
Director of Insurance

# **NOTICE OF HEARING**

PLEASE TAKE NOTICE, that pursuant to the provision of A.R.S. §§20-161 through and including 20-165, and A.R.S. Title 41, the above-captioned matter will be heard before the Director of the Director's duly designated representative, on Tuesday, the 16th day of February, 1999, at 9:00 a.m., at the Office of Administrative Hearings, 1700 West Washington, Capitol Tower, West Wing, Suite 602, Phoenix, Arizona (the "Hearing").

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If Respondent is represented by counsel, the attorney shall be licensed to practice law in the state of Arizona, or, if the Respondent is an insurer, it may be represented by a corporate officer, pursuant to A.R.S. §20-161(B).

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Questions concerning issues raised in this Notice of Hearing should be directed to Assistant Attorney General Michael J. De La Cruz, (602) 542-3702, 1275 West Washington Street, Phoenix, Arizona 85007.

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The allegations supporting this Notice of Hearing are as follows:

- 1. Respondent holds, and at all material times held, a license to transact property and casualty insurance business in the state of Arizona, license number 50155. The license expires effective December 31, 1998.
- 2. Respondent resides in Ajo, Arizona, which is located on the border of Mexico.

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- 3. Respondent frequently secured insurance for these consumers by asking them to pay with credit or debit cards. Respondent had contracts with two credit card companies -- Novus and Delta Card Service. Respondent had a credit card machine with an account established under the name of Arizona Mexico Insurance Services ("AMI") and she was the sole signatory on the account. In fact, Respondent was an independent contractor for John Stathis and his d.b.a. is Arizona Mexico Insurance. Respondent did not have Stathis' permission to open any account using his d.b.a.
- 4. The money generated by the credit card charges was deposited to Respondent's AMI account. Respondent wrote checks for personal use from this account, including a check dated October 14, 1998, for \$5,343.61, which was the down payment for a home in which Respondent now resides.

## COUNT I

- 5. On May 22, 1998, James Christian purchased a three day Mexican auto insurance policy from Respondent. Christian used his VISA debit card to pay the \$29.00 premium. This amount was paid in full in May 1998.
- 6. In October 1998, Christian received his Norwest bank statement that includes purchases on his VISA debit card. A \$29.00 debit on October 1 and a \$92.00 debit on October 8 to AMI appeared on Christian's statement. Christian did not purchase additional Mexican auto insurance on these dates nor did he authorize additional debits from his account.

#### **COUNT II**

- 7. On December 26, 1997, Fred J. Walhof purchased a four day Mexican auto insurance policy from Respondent. The insurance was purchased at "Mr. Burger" from Palm Insurance of Arizona, an unregistered d.b.a. briefly used by Respondent. Walhof used his VISA credit card to pay the \$23.35 premium. This amount was paid in full in January 1998.
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10. Richardson-Hall received her October 1998 Wells Fargo statement and discovered a \$133.48 charge from AMI on October 8, 1998. Richardson-Hall did not purchase additional Mexican auto insurance on this date nor did she authorize additional charges to her account.

#### **COUNT IV**

- 11. In May 1998, Ann Kemter paid for a portion of a Mexican auto insurance policy purchased from Respondent. The owner of the insured vehicle paid half the premium in cash and Kemter paid the remaining \$17.00 with her Fleet Bank debit card. This amount was paid in full in May 1998.
- 12. When Kemter received her October 1998 Fleet Bank statement she noted a \$27.00 debit on September 25 and a \$57.00 debit on October 5 paid to AMI. Kemter resides in New York, she did not purchase additional Mexican auto insurance on these dates nor did she authorize additional debits from her account.

#### **COUNT V**

13. The Department obtained copies of AMI's Community First National Bank statements. In the month of October 1998, AMI received payment for \$15,051.44 in credit card charges.

Respondent wrote checks against the entire \$15,051.44 and she is the sole signatory on the account.

## VIOLATIONS

- 14. Respondent's conduct, as alleged above, constitutes a willful violation of or noncompliance with any provision of Title 20, within the meaning of A.R.S. §20-316(A)(2).
- 15. Respondent's conduct, as alleged above, constitutes misappropriation or conversion or illegal withholding of monies belonging to policyholders or others and received in or during the conduct of business under the license or through its use, within the meaning of A.R.S. §20-316(A)(4).

- 16. Respondent's conduct, as alleged above, constitutes a conduct of affairs under the license showing the licensee to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer within the meaning of A.R.S.§20-316(A)(7).
- 17. Respondent's conduct, as alleged above, constitutes the diversion of monies of an insurer or other person, within the meaning of A.R.S. §20-463(A)(4)(a).

WHEREFORE, if after hearing, the Director finds the grounds alleged above, the Director may suspend, revoke, or refuse to renew Respondent's insurance license or order restitution, or order Respondent to pay civil penalties, prusuant to A.R.S. §§20-316(C) and 20-456.

Pursuant to A.R.S. §20-150, the Director delegates the authority vested in the Director of
Insurance of the State of Arizona, whether implied or expressed, to the Director of the Office of
Administrative Hearings or his designee to preside over the hearing of this matter as Administrative Law
Judge, to make written recommendations to the Director of Insurance consisting of proposed Findings of
Fact, proposed Conclusion of Law and a proposed order. This delegations doesnot include delegation of
the authority of the Director of Insurance to make hte order on hearing or other decisions in this matter.

Pursuant to A.R.S. §41-1092.01, your hearing will be conducted by the Office of Administrative Hearings, an independent agency. Please find enclosed a copy of the procedures to be followed.

Dated this 30 to day of December, 1998

CHARLES R. COHEN Director of Insurance

1	COPY of the foregoing mailed/hand-delivered this 30th day of December, 1998, to:
2	Deborah Jean Baggett
3	1021 Jefferson Avenue Ajo, AZ 85321
4	Deborah Jean Baggett
5	410 Estrella Ajo, AZ 85321
6	
7	Deborah Jean Baggett 3641 Hwy 85
8	Ajo, AZ 85321
9	Michael J. De La Cruz Assistant Attorney General
10	1275 West Washington Phoenix, AZ 85007
11	Sara M. Begley, Deputy Director
12	John D. Gagne, Assistant Director Maureen Catalioto, Supervisor
13	Donna Futrell, Investigator Arizona Department of Insurance
14	2910 North 44th Street, Suite 210 Phoenix, AZ 85018
15	Lewis Kowal Administrative Law Judge
16	Office of Administrative Hearings 1700 West Washington, Suite 602
17	West Wing, Capitol Tower Phoenix, AZ 85007
18	less have mailed/delivered to the persons listed below.
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1	than the Director's final order. Information about the status of this matter, including whether the hearing date has been changed, may be obtained by contacting the Department of Insurance at (602) 912-8454.
2	Colonial Insurance Company of Wisconsin
3	P.O. Box 182109
4	5525 Park Center Circle Columbus, OH 43218-2109
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6	Curvey Walters Burton
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